

SERVED: May 10, 1999

NTSB Order No. EA-4763

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)  
on the 10th day of May, 1999

_____	)	
JANE F. GARVEY,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-15432
v.	)	
	)	
JOHN L. DRANKO,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the notice of appeal in this proceeding because it was not, as required by Section 821.47 of the Board's Rules of Practice (49 CFR Part 821),<sup>1</sup> filed by the respondent within 10 days after the law judge served a written decision and order on March 25, 1999.<sup>2</sup> We will grant the

<sup>1</sup>Section 821.47 provides as follows:

**§ 821.47 Notice of Appeal.**

A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to § 821.8) a notice of appeal within 10 days after an oral initial decision or an order has been served.

<sup>2</sup>The law judge's order grants summary judgment for the Administrator on a complaint revoking respondent's commercial pilot certificate (No. 1317414) under section 61.15(a)(2) of the Federal Aviation Regulations, 14 CFR Part 61, and 49 U.S.C. Section 44710(b), based on a federal court drug conviction.

motion.

In response to the Administrator's motion to dismiss, respondent contends that his April 7, 1999 notice of appeal was timely because it was filed within 10 days after he received, on March 29, a copy of the law judge's order. Respondent's position is unavailing. Rule 47 specifies that the 10-day period within which a notice of appeal must be filed runs from the day the order is served, not the date the order is received. The March 25 service date is prominently typed at the top of the first page of the law judge's order, and written advice attached to the order repeats the requirement of Section 821.47 of our Rules of Practice, 49 CFR Part 821, previously furnished to respondent, that the deadline for the notice is 10 days after the order was served.<sup>3</sup>

Without good cause to excuse a failure to file a notice of appeal on time, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988). Board precedent has long held that an unfounded error in determining a due date does not constitute good cause. See, e.g., Administrator v. Near, 5 NTSB 994 (1986).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Daniel D. Campbell  
General Counsel

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<sup>3</sup>Our Rules of Practice also specify that where service is by mail, the date of service is the date of mailing. See Section 821.8(e). The law judge's order was sent to respondent by certified mail on March 25, 1999, as the service date on the order reflects.